

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

New England Telephone and Telegraph Company, d/b/a
Bell Atlantic-Massachusetts – 42 U.S.C. § 271
Compliance Filing

D.T.E. 99-271

**MOTION OF NETWORK PLUS, INC.
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

Network Plus, Inc. ("Network Plus") hereby requests that the Department of Telecommunications and Energy (the "Department") grant protection from public disclosure of certain highly confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D and procedures established in this proceeding. Specifically, Network Plus requests that its responses to Record Request Number 228, Number 237, Number 238 and all attachments to those responses be granted the highest level of protective treatment and be made available only to the Department, and not to the other participants in this proceeding. The information contained in these responses and attachments is highly confidential, competitively sensitive and proprietary.

I. DESCRIPTION OF MATERIAL TO BE PROTECTED

In each of its responses to Record Requests 235, 236 and 237, Network Plus has provided information regarding its construction forecasts, specifically regarding its trunk forecasts and its collocated facilities in one of its major markets.

II. LEGAL STANDARD

Confidential information may be protected from public disclosure in accordance with G.L. c. 25, § 5D, which states in part that:

The [D]epartment may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

The Department has recognized that the sort of information for which Network Plus seeks protection should be accorded confidential treatment and should not be placed on the public record or shared with other carriers. In the *Consolidated Arbitrations*, D.T.E. 96-73/74, 96-75, 96-80/81 and 96-84, the Department determined that BA-MA's monthly carrier-specific performance reports, which contained information about orders of carriers for interconnection trunks, unbundled network elements, and resold services, were competitively sensitive. See Hearing Officer Ruling on Bell Atlantic Motion for Protective Treatment of Performance Standards Reports, issued October 21, 1999. The Department also determined that simply redacting the carrier's name from the reports would not adequately protect the confidential information of the carrier since knowledgeable persons may be able to determine the identity of the carrier from the information which was provided. Information concerning Network Plus' network construction plans would, if released, provide its competitors with valuable information regarding Network Plus marketing plans, entry strategy, and changes in market share. Such commercially confidential and competitively sensitive information is

precisely the type of data that G.L.c. 25 § 5D authorizes the Department to protect from public disclosure.

WHEREFORE, Network Plus respectfully requests that the Department grant this Motion and find that the data provided in response to Record Requests 228,237 and 238 are highly sensitive Confidential Information which will be available for review only by the Department and not by the participants in this proceeding.

Respectfully submitted,

NETWORK PLUS, INC.
By Its Attorneys

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